

1982 S.C. Op. Atty. Gen. 44 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-40, 1982 WL 155009

Office of the Attorney General

State of South Carolina

Opinion No. 82-40

June 8, 1982

**\*1 SUBJECT: Taxation—general obligation debt incurred in anticipation of ad valorem taxes.**

Tax anticipation notes are not subject to the limitation that restricts certain debts of a political subdivision to 8% of the assessed value of all taxable property of such political subdivision.

TO: Jeffrey A. Merriam, Esquire  
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**QUESTION:**

Are tax anticipation notes subject to the limitation that restricts certain debts of a political subdivision to 8% of the assessed value of all taxable property of such political subdivision?

**APPLICABLE LAW:**

[Article X, Section 14 of the South Carolina Constitution.](#)

**DISCUSSION:**

The question posed is whether the tax anticipation notes of a political subdivision, as provided for by [Article X, Section 14\(8\) of the South Carolina Constitution](#), are subject to the restrictions of [Section 14\(7\)](#) of the same Article. [Section 14\(7\) and \(8\)](#) states in part that:

‘(7) Subject to the provisions of subsection (4) of this section and on such terms and provisions as the General Assembly may, by general law, prescribe, general obligation debt may also be incurred by the governing body of each political subdivision:

(a) For any of its corporate purposes in an amount not exceeding eight percent of the assessed value of all taxable property of such political subdivision;

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In determining the debt limitations imposed by the provisions of subsection (7) of this section, bonded indebtedness incurred pursuant to the authorizations of subsection (6), bonded indebtedness existing on the date of this section becomes a part of the Constitution in 1977, and bonded indebtedness incurred pursuant to subsection (b) of this section, shall not be considered.

(8) General obligation debt may also be incurred in anticipation in the collection of ad valorem taxes or licenses (tax anticipation notes) under such terms and conditions as the General Assembly may prescribe by general law. \* \* \*’

In construing the meaning of the above constitutional language, it is a fundamental principle that the intent of the makers shall be ascertained and control. [Ansel v. Means](#), 171 S.C. 432, 172 S.E. 434 (1934); [Neel v. Shealy](#), 261 S.C. 266, 199 S.E.2d 542 (1973). To accomplish this, it is necessary to look first to the plain language the General Assembly chose to use in [Section 14](#).

It is significant that in [Section 14\(8\)](#) the word 'also' is used in the phrase 'general obligation debt may also be incurred in anticipation of the collection of ad valorem taxes'.

'\* \* \*. Constitutions generally are most carefully prepared and the courts are bound to presume that the framers had some purpose in inserting every clause and every word contained in the document and it is never to be supposed that a single word was inserted in the organic law of the state without the intention of conveying thereby some meaning. \* \* \*.' [Ravenel v. Dekle](#), 265 S.C. 364, 218 S.E.2d 521 (1975).

\*2 'Also' has been interpreted in a conjunctive sense as meaning 'furthermore' or 'in addition'. It does not carry over into a sentence or phrase the idea of the sentence or phrase which precedes it. [State v. Camp Sing](#), 18 Mont. 128, 44 P. 516 (1896). The use of the word 'also' in [Section 14\(8\)](#) thus infers that tax anticipation notes are something separate and apart from the class of general obligation debt referred to in [Section 14\(7\)](#).

This position is further supported by the language used in the last paragraph of [Section 14\(7\)](#) where reference is made solely to bonded indebtedness. This suggests that [Section 14\(7\)](#) and its 8% limitation relates only to bonded indebtedness created by a political subdivision's governing body.

The intent of the General Assembly may also be surmised by reviewing the history of [Article X, Section 14](#). Prior to the Article's drafting, The Committee to Make a Study of the South Carolina Constitution of 1895 issued its [Final Report](#). Page 86 of that report submitted a proposed draft of the future [Article X, Section 14](#) in which tax anticipation notes were excluded from all debt limitations.

Finally, the conclusions reached above are in keeping with the treatment given tax anticipation notes by the judiciary of South Carolina. The court in [City of Georgetown v. Elliott](#), 95 F.2d 775 (1938) best reflects this when it stated that the 8% limitation is placed upon:

'\* \* \* the power of the municipality to create a debt by the issuance of bonds, not as a limitation upon the power to borrow money for short periods in anticipation of the collection of taxes; \* \* \*.'

#### CONCLUSION:

Tax anticipation notes are not subject to the limitation that restricts certain debts of a political subdivision to 8% of the assessed value of all taxable property of such political subdivision.

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